**BOARD OF APPEALS CASE NO. 5332 & 5333** 

APPLICANTS: Emmorton Baptist Church and Clark & Deborah Turner, Betty Remines REQUEST: Special Exceptions and variances to construct a health service/medical clinic, with signage in the RO District and to permit driveway in the R2 District to serve RO use; 106-A, 108, 110, 112, 204, 300 & 302 Plumtree Road, Bel Air

**HEARING DATES:** April 21, 2003

**BEFORE THE** 

**ZONING HEARING EXAMINER** 

OF HARFORD COUNTY

Hearing Advertised Aegis: 3/5/03 & 3/12/03 Record: 3/7/03 & 3/14/03

**ZONING HEARING EXAMINER'S DECISION** 

These cases were consolidated at the beginning at the hearing before the Harford County Zoning Hearing Examiner at the request of counsel for the Applicant. The two requests involve adjoining properties and can only be understood given the entire factual circumstances of both parcels and the surrounding area. For purposes of clarity, the Hearing Examiner will present the facts common to both cases, identify those facts relevant to only one request and finally, set forth separate conclusions and recommendations for each case.

## **Case No. 5333**

The Applicant, Clark and Deborah Turner, are requesting a variance, pursuant to Section 267-36.1B, Table VIIA, of the Harford County Code, to allow an office building in excess of 35 feet in height (39.5 foot average requested with a maximum height from grade at 49 feet); a special exception, pursuant to Section 267-53H(9)(b), and a variance, pursuant to Section 267-53H(9)(b)(1), to construct a Health Service/Medical Clinic and, if necessary to allow the structure to be incompatible with surrounding residential uses in size, scale and façade. The Applicant further requests a variance pursuant to Section 219-13B(1), (2) and (3), to allow the proposed building to have more than one wall sign (three proposed) to be more than 4 square feet in sign area (76.33 square feet proposed), and to permit the wall signs to be internally illuminated and, if necessary, a variance to permit the signs to be constructed in an obtrusive manner in an RO/Residential Office District.

The subject parcel is located on the north side of Plumtree Road and includes the lots formerly identified as 108, 110, 112, 200, 202 and 204 Plumtree Road, Bel Air, MD 21015. The parcel is more particularly identified on Tax Map 56, Grid 2C, Parcels 210, 400, 287, 50, 439 and 31. The parcel is located in the Third Election District, consists of 2.41± acres and is presently zoned RO/Residential Office.

### **Case No. 5332**

The Applicant, Emmorton Baptist Church, is requesting a special exception, pursuant to Section 267-53K of the Harford County Code, to permit a private road or driveway located in an R2/Urban Residential District to serve uses permitted in an RO/Residential Office District. Also requested is a variance, pursuant to Sections 219-17, 219-13A(2) and/or 219-12D, to permit an identification sign less than one-third of the required building setback (16.66 feet allowed, 3 feet proposed) with a total sign area of 32 square feet and more than the overall height of 6 feet (11 feet proposed), in an R2/Urban Residential District.

The subject parcel is located at 106A Plumtree Road, Bel Air, MD 21015 and is more particularly identified on Tax Map 56, Grid 2C, Parcel 28. The property consists of 10.399 acres, is zoned R2/Urban Residential District, and is entirely within the Third Election District. The subject parcel is adjacent to the parcel identified in Board of Appeals Case No. 5333 and is separated from Plumtree Road by that parcel.

## **STATEMENT OF FACTS**

Mr. Clark Turner appeared and testified that he operates a business that builds, leases and operates residential and commercial properties. The witness testified that he was approached by 11 homeowners that owned the 11 lots on both sides of Plumtree Road extending north of Route 24 between Route 924 and Route 24. The 11 homeowners wanted Mr. Turner to purchase all of their homes because they feared an inability to sell any single property at a fair market price because the 11 homes were bordered by Route 24 to the west, a medical center, McDonald's restaurant and Route 924 to the east, and commercial development south and north. The homes were an island surrounded by commercial uses.

Mr. Turner has purchased all 11 parcels. Six of those lots are located on the north side of Plumtree Road and are the subject of this request. The other 5 lots are across the street. All but two of these former residences have been razed and the remaining two will be razed once approval for further development consistent with this request is received. The result is that a former existing residential neighborhood located between Routes 24 and 924 does not exist. The Applicant pointed out that all remaining uses on that stretch of Plumtree are commercial and that there are no remaining residential uses in the immediate area either to the south, east or west. To the north is a large parcel of R4 property which is, as yet, undeveloped.

Proposed is a 37, 500 square foot, 3-story professional office building consistent with the rendering depicted on Applicant's Exhibit 13. The design was intended to look like a series of urban townhouses rather than a big box by use of different facades and roof lines. The design is larger than the 35 feet because the International Building Code requires significantly more structural support and space between floors for computer support than anticipated by the Harford County Code. Formerly, Harford County used the BOCA building code which would have resulted in a lower height but compliance with the newly adopted International Building Code results in the requested height. In describing why the building could not be reduced to two stories and simply avoid the variance, the witness stated that the footprint of the building was limited by the configuration of the lot and the need for parking as well as access located away from Route 24 (for safety reasons). A reduction of one-third (1/3) in the total available space in the building would make the parcel unmarketable and the Applicant would not construct such a use. In the opinion of the witness, the slight height differential of 4.5 feet between what is requested and what is permitted without a variance, will not be noticeable and will not result in any adverse impact to adjoining properties.

The witness went on to describe the signage proposed. There will be a building sign and a sign located on each of two awnings to identify the uses at those entrances. He points out that the signage requirements of the RO zone were intended to be compatible with residential uses that would be found in the immediate vicinity but, because of the

unique circumstances of this parcel, there are no residential properties left in the zone that could be potentially impacted by this signage. He pointed out that the proposed signage is still significantly smaller and less intrusive than that allowed on the adjacent and neighboring commercial uses (compare the McDonald's arches only several hundred feet away). The size and location of the signage is designed to safely direct traffic to the office building from a 55 mph highway. Smaller signage would not serve the purposes at this particular location. The witness pointed out again that the Code anticipates that the signage requirements of the RO District anticipate a residential area where posted speeds are significantly lower than those on Route 24.

Mr. Kevin Small appeared and qualified as an expert architect and land planner. Mr. Small defined the neighborhood as Plumtree Road between Routes 24 and 924 and including the properties bordering these roads. The purpose of the RO zone is to act a as transition between residential and commercial uses and uses allowed as special exceptions in that zone are intended to be compatible with residential uses. Although there are no residential uses left in the neighborhood, the witness expressed his opinion that the proposed office building would be compatible with residential uses found elsewhere in the RO zone and there is nothing about the proposed building that would be incompatible with those types of uses. The actual owners of the 11 homes, however, by their unified action in selling en masse, recognized that the neighborhood was no longer suitable for residential uses. The office building seeks to lease to an interested medical group. The location, according to the witness, is in ideal proximity to the Upper Chesapeake hospital complex and will provide much needed medical care to the Bel Air and surrounding communities. It will be compatible, in the witness's opinion, with every other existing use in the neighborhood as well as any permitted R4 use if ever developed to the north.

Mr. Small described the parcel, the entrances and the parking. The main access will be an entrance from Plumtree Road approximately 300 feet from the Route 24 right-of-way. A secondary entrance is proposed to be shared with the Emmorton Baptist Church. As to the proposed height of the building, the witness pointed out that the design requires 10 foot ceilings with 2 foot beehive pacing between floors. In order to reach a marketable level of

leasable space, the height, according to the witness, cannot be reduced. If the footprint were enlarged, inadequate parking and unsafe access would result. Mr. Small pointed out that the only zone potentially impacted by the increased height is the R4 zone but it allows 3 story construction so no actual impact that is adverse in nature will result form a grant of the variance.

According to Mr. Small, the entire circumstance of this parcel is unique. The lot is long and narrow and the entrance is dictated by the location of Plumtree Road and Route 24. It is a residentially zoned parcel with no residential uses exiting now or in the future. The actual building code requirements have changed since the Code provisions were enacted. Even though an RO zone, all surrounding uses are presently commercial in nature with the exception of the Emmorton Baptist Church.

The property improved by the Emmorton Baptist Church is a panhandle configuration and has no direct access to Plumtree Road. The Church property is separated from Plumtree Road by the Turner property proposed to be developed as an office building. The current entrance to the Church adjoins the Turner property and, as proposed, will alleviate a safety problem and confusion problem that has existed for many years. The present drive is often confused with the Plumtree Medical Center drive located just east of both the Church and Turner property. Creating a new drive shared by the Church and the new proposed office building will improve safety and alleviate confusion, particularly when the relocated drive enjoys the proposed signage that will direct parishioners to the church as such signs are intended. The Church property is not visible from Plumtree Road. Because of existing vegetation that provides attractive and necessary screening between the office use and the church use, an 11 foot height is requested and is necessary to be visible.

Additionally, the reduced setback is the minimum necessary to allow the sign to be reasonably visible from the road surface. Mr. Small pointed out that the Plumtree Park sign is 12 feet from the road right-of way and is significantly larger than the proposed church sign. He did not feel that any adverse impacts would result from the placement or the height, particularly given the existing commercial, retail and office uses in the neighborhood.

The Department of Planning was represented by Mr. Anthony McClune. Mr. McClune indicated that the Department of Planning and Zoning (Department) recommended approval of each of the special exception and variance requests. The Department agreed that the subject parcels were both uniquely configured and that no adverse impacts would result form approval of any of the requests. The neighborhood has changed and is no longer residential. There are no residential uses left at this location to be impacted by the proposed uses; however, Mr. McClune pointed out that, even if residential uses did exist, nonetheless, the requested special exceptions and variances requested by the two applicants would still be compatible with those uses and consistent with good planning and zoning principles and practices. The proposed office building is allowed as a special exception in this zone and is presumptively deemed to be compatible with residential uses normally associated with the RO zone. The RO zone is intended to be a transition zone between residential and commercial uses. In the case of the proposed office building, all of the requirements of the Code have been met by the Applicant to satisfy the special exception request and clearly, since there are no residential uses remaining, there will be no adverse impacts greater than or different than a similar office building located in another RO district. In fact, according to Mr. McClune and the Department, the impacts here will be significantly less than a similar use in another RO location. McClune agreed that the proposed signage on the proposed office building was compatible with other uses in the neighborhood and resulted from the unique characteristics of the parcel itself, the impact of the International Building Code and the orientation between two major roads, Routes 24 and 924.

As to the Church property, Mr. McClune agreed that the landlocked configuration of the parcel and its lack of visibility form Plumtree Road justified the signage variances requested by the Applicant. Additionally, the proposed special exception use for a shared entrance satisfies all of the requirements for such a use set forth in the Harford County Code and further, as proposed, the shared driveway will satisfy both safety and access concerns associated with the current drive entrance.

The Department, in conclusion, found that all of the specific requirements and/or intent of the Code could be met by each of the proposals before the Hearing Examiner and recommended approval of each request.

There were no protestants that appeared in opposition to the requests.

### CONCLUSION AND RECOMMENDATION

#### **Case No. 5333**

The Applicant, Clark and Deborah Turner, are requesting a variance, pursuant to Section 267-36.1B, Table VIIA, of the Harford County Code, to allow an office building in excess of 35 feet in height (39.5 foot average requested with a maximum height from grade at 49 feet); a special exception, pursuant to Section 267-53H(9)(b), and a variance pursuant to Section 267-53H(9)(b)(1), to construct a Health Service/Medical Clinic and, if necessary to allow the structure to be incompatible with surrounding residential uses in size, scale and façade. The Applicant further requests a variance, pursuant to Sections 219-13B(1), (2) and (3), to allow the proposed building to have more than one wall sign (three proposed) to be more than 4 square feet in sign area (76.33 square feet proposed), and to permit the wall signs to be internally illuminated and, if necessary, a variance to permit the signs to be constructed in an obtrusive manner in an RO/Residential Office District.

The Harford County Code provisions applicable to this request provide as follows:

### Section 267-51. Purpose.

Special exceptions may be permitted when determined to be compatible with the uses permitted as of right in the appropriate district by this Part 1. Special exceptions are subject to the regulations of this Article and other applicable provisions of this Part 1.

#### Section 267-52. General regulations.

A. Special exceptions require the approval of the Board in accordance with Section 267-9, Board of Appeals. The Board may impose such conditions, limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Part 1 and the public health, safety and welfare.

- B. A special exception grant or approval shall be limited to the final site plan approved by the Board. Any substantial modification to the approved site plan shall require further Board approval.
- C. Extension of any use or activity permitted as a special exception shall require further Board approval.
- D. The Board may require a bond, irrevocable letter of credit or other appropriate guaranty as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.
- E. In the event that the development or use is not commenced within three (3) years from date of final decision after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Zoning Administrator shall have the authority to extend the approval for an additional twelve (12) months or any portion thereof.

#### Section 267-53H(b) Health services and medical clinics.

- (b) These uses may be granted in the RO District, provided that:
  - [1] The structure shall be of a size, scale and facade compatible with the surrounding residential neighborhood.

#### Section 267-36.1. RO Residential/Office District.

- A. Purpose. This district is intended to provide for the conversion of residential structures to other uses and construction of small retail, service and office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic or other similar factors, may no longer be suitable for only those uses allowable in residential districts. It is the common intention in this district that the buildings and uses be compatible with provide a transition from and be in harmony with the present or prospective uses of nearby residential property.
- B. General regulations. Minimum lot area, area per dwelling or family unit, building setback from adjacent residential lot lines, lot width, front, side and rear yard and maximum building height, as displayed in Table VIIA, shall apply, subject to other requirements of this Code.

#### Section 267-11 Variances.

Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.

<u>Section 267-91</u> Limitations, guides and standards.

In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building, addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:

- (1) The number of persons living or working in the immediate area.
- (2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.
- (3) The orderly growth of the neighborhood and community and the fiscal impact on the county.
- (4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.
- (5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.
- (6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.

- (7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.
- (8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.
- (9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.
- (10) The preservation of cultural and historic landmarks.

#### Section 219-13 Signs Permitted by District.

The following signs shall be permitted in the following districts:

- (B) Residential/Office district (RO).
  - (1) The following signs shall be allowed:
    - (a) One freestanding sign per parcel, which shall have a maximum of eight square feet in area, shall be no more than six feet in height and shall be placed perpendicular to the road; and
    - (b) A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than four square feet in area.
  - (2) Freestanding and wall signs shall be constructed of wood, brass or bronze and shall not be internally illuminated. Both freestanding and wall signs may be externally illuminated.
  - (3) Signs shall be constructed in an unobtrusive manner which compliments the architectural element of the building and reflects the architectural period of the building.

### **Case No. 5332**

The Applicant, Emmorton Baptist Church, is requesting a special exception, pursuant to Section 267-53K of the Harford County Code, to permit a private road or driveway located in an R2/Urban Residential District to serve uses permitted in an RO/Residential Office District. Also requested is a variance, pursuant to Sections 219-17, 219-13A(2) and/or 219-12D, to permit an identification sign less than one-third of the required building setback (16.66 feet allowed, 3 feet proposed) with a total sign area of 32 square feet and more than the overall height of 6 feet (11 feet proposed) in an R2/Urban Residential District.

The Harford County Code provisions applicable to this request provide as follows:

#### Section 267-51. Purpose.

Special exceptions may be permitted when determined to be compatible with the uses permitted as of right in the appropriate district by this Part 1. Special exceptions are subject to the regulations of this Article and other applicable provisions of this Part 1.

#### Section 267-52. General regulations.

- A. Special exceptions require the approval of the Board in accordance with Section 267-9, Board of Appeals. The Board may impose such conditions, limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Part 1 and the public health, safety and welfare.
- B. A special exception grant or approval shall be limited to the final site plan approved by the Board. Any substantial modification to the approved site plan shall require further Board approval.
- C. Extension of any use or activity permitted as a special exception shall require further Board approval.
- D. The Board may require a bond, irrevocable letter of credit or other appropriate guaranty as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.

E. In the event that the development or use is not commenced within three (3) years from date of final decision after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Zoning Administrator shall have the authority to extend the approval for an additional twelve (12) months or any portion thereof.

Section 267-53K Accessory parking areas, driveways and private roads.

These uses may be granted in any district to serve a use permitted and located in another district but not permitted in the subject district, provided that:

- (1) The parking area, driveway or private road shall be accessory to and for the use of one (1) or more agricultural, residential, business or industrial uses located in an adjoining or nearby district.
- (2) No charge shall be made for the parking or storage of vehicles on any parking lot approved pursuant to this provision.
- (3) Any private road or driveway shall provide access to an approved private road, county road or state road or highway.
- (4) The number of parking spaces and total parking area approved in the subject district under this section shall not exceed thirty percent (30%) of the parking spaces and area required by this Part 1 for the permitted use.

Section 219-12 Signs permitted in all zoning districts.

The following signs shall be permitted anywhere within the county:

D. Permanent institutional signs. Signs of a permanent nature setting forth the name of places of worship, service clubs, civic organizations, public or service centers, public institutions, schools or other similar uses shall be permitted if the setback is 1/3 of the required building setback of the district. Illumination shall be in accordance with the restrictions set forth in § 219-11. Such signs shall not exceed 54 square feet for the overall structure and shall not exceed six feet in overall height.

#### Section 219-13 Signs permitted by district.

The following signs shall be permitted in the following districts:

- A. Residential districts and residential lots.
- (1) Professional or home occupation signs.
  - (a) One lighted sign, not exceeding two square feet in area and attached flat against the building, shall be permitted in conjunction with approved professional or home occupations as set forth in the Zoning Code.
  - (b) Freestanding signs may be permitted as a special exception, subject to the approval of the Board, provided that they are located not less than ten feet from the road right-of-way, do not exceed six feet in height and do not have a sign area exceeding four square feet.
- (2) Identification signs for institutional uses, housing for the elderly, continuing care retirement communities, nursing homes and assisted living facilities shall be permitted provided it does not exceed one square foot of sign for each foot of building frontage, not to exceed 400 square feet. No advertising signs indicating the accessory uses of the CCRC shall be placed along the boundary of the property.

## Section 219-17 Variances.

The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.

Section 267-91 Limitations, guides and standards.

In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building, addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:

- (1) The number of persons living or working in the immediate area.
- (2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.
- (3) The orderly growth of the neighborhood and community and the fiscal impact on the county.
- (4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.
- (5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.
- (6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.
- (7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.
- (8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.
- (9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.
- (10) The preservation of cultural and historic landmarks.

The Hearing Examiner finds that each of these Applicants can meet or exceed the requirements of the Harford County Code as to their special exception requests. Having met the statutory requirements of the Code provisions applicable to each request, left is a determination regarding the particular impacts associated with the requests.

The standard to be applied in reviewing a request for special exception use was set forth by the Maryland Court of Appeals in <u>Schultz v. Pritts</u>, 291 Md. 1, 432 A.2d 1319 (1981) wherein the Court said:

"...The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any facts or circumstances negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. (Citations omitted). These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied." (Emphasis in original).

The Court went on to establish the following guidelines with respect to the nature and degree of adverse effect which would justify denial of the special exception:

"Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." 291 Md. At 15, 432 A.2d at 1327.

Applying these principles leads to the conclusion that neither of these proposed special exception uses will have adverse impacts at the proposed location above and beyond those associated with such a use if located elsewhere on an RO or R2 parcel. As to the proposed office building and medical use proposed, it is a use intended to be compatible with residential uses, yet, there are no residential uses existing that would be impacted by the use. The parcel is surrounded by other retail, commercial or office uses that will similarly suffer no adverse impacts as a result of the construction of the proposed office building.

As to the request for a special exception to share an entrance a similar conclusion is reached by the Hearing Examiner. Because there are no existing residential uses that could be impacted the proposed use of a shared entrance will not have adverse impacts above and beyond those that would exist if this use were located at another location. In fact, the Hearing Examiner is satisfied that the proposed use will satisfy certain safety concerns associated with the existing church entrance and prevent confusion regarding location of the church entrance.

Both of the subject parcels are unique. The Turner property is long an narrow and, because of the necessity for certain distance along Plumtree Road before safe access can be created to the parcel, the building footprint is forced to one end or the other. Visibility on Route 24 is an important commercial factor and contributes to the location at the Route 24 end of the parcel. There are no residential properties left in the RO zone, certainly unique among other RO Districts in Harford County.

The height of the proposed building is not unreasonable given the footprint of the building, the need for a commercially viable amount of space and the impacts associated with compliance with the International Building Code (confirmed by the Department of Planning and Zoning). The height variance requested is only 4.5 feet and, due to distances, speed of traffic and surrounding uses will not result in adverse impacts. Similarly, the signage proposed is consistent with the proposed office building use, serves to properly direct traffic traveling along a high posted speed highway. Neither the number, size or type of material used not the illumination present any adverse impacts to neighboring properties.

The signage proposed by the Church results from existing vegetation, desirable as screening, its landlocked configuration and lack of visibility from Plumtree Road. Each of these alone is a unique characteristic, together they serve to mandate the location, size and height of the proposed signage, the minimum necessary to cope with the existing vegetation and lack of visibility from Plumtree Road. No adverse impact will result from any of these requests as they only affected properties are commercial and office uses whose signage is larger than that proposed and located closer to the right-of-way in some instances.

For all of the foregoing reasons, the Hearing Examiner recommends that the requests of both Applicants be granted, subject to the following conditions:

- 1. Both Applicants shall obtain any and all necessary permits and inspections.
- 2. The Applicant, Clark Turner, shall re-submit detailed site plans that are in general conformance with the site plan identified as Attachment 5 to the Department of Planning and Zoning Staff Report prepared in Case No. 5333, for review and approval through the Development Advisory Committee (DAC).
- The existing parcel shall be combined as one lot and documents effectuating that combination shall be recorded as necessary among the land records of Harford County, Maryland.

Date MAY 16, 2003

William F. Casey Zoning Hearing Examiner